IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19869 of 2004

Between:

P.Thirupathi Rao, S/o.Banaiah, Sarpanch
Gram Panchayat; Jilleda, Mandal: Vemanpally, Adilabad Dist.

..... PETITIONER

AND

1 The Collector, (Panchayat wing) Adilabad.
2 The Divisional Panchayath officer, Asifabad, Adilabad Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court wmay be pleased to issue a writ, order or direction, more particularly one in the nature of writ of certiorari to call for the records in proceedings No.597/K4.pts/03 dt.14-10-2004 on the file collector (panchayat wing), Adilabad District and declare the action of the Respondent No.1 in suspending the petitioner herein from the post of Sarpanch, Gram Panchayath, Khanapur Village, by exercising powers under sec. 249(6) of A.P. Panchayat Raj Act, 1994 as arbitrary, illegal without jurisdiction and violative of principles of natural justice and contrary to the procedure under the provision 249 of A.P Panchayat Raj Act, 1994 and consequently set aside the same.

Counsel for the Petitioner: MR.VINOD KUMAR DESHPANDE

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORDER

Heard the learned counsel for the petitioner, learned Government Pleader for Panchayat Raj and Rural Development and Sri Jagannatha Rao, learned counsel appearing for the Upa-Sarpanch, who filed the caveat.

Petitioner is the Sarpanch of Jilleda Gram Panchayat, Vemanpally Mandal, Adilabad District. On a report submitted by the Divisional Panchayat Officer-second respondent herein, dated 7.7.2004 alleging that the petitioner failed to produce any records for verification during the course of enquiry conducted on 6.7.2004 even after prior notice, the petitioner was served with a show cause notice dated 15.7.2004 calling upon to show cause as to why suitable action should not be taken against him under Section 249(6) of Andhra Pradesh Panchayat Raj Act, 1994 for his suspension from the post of Sarpanch for non production of records before the Enquiry Officer. According to the petitioner, he sought for time to submit his explanation pursuant to the said show cause notice as he was suffering from some disease. Thereafter, on further reports submitted by the second respondent dated 18.8.2004 and 17.9.2004 alleging that the petitioner had failed to conduct Gram Panchayat meetings and failed to adjust the advances of Rs.72,000/- drawn by him duly check measured and particulars of drawls of Rs.34,700/- from Gram Panchayat funds, the first respondent by impugned order dated 14.10.2004 placed the petitioner under suspension. Questioning the legality and validity of the sane, the present writ petition is filed contending that pursuant to the show cause notice dated 15.7.2004 though the petitioner submitted his explanation along with the records under proper acknowledgement on 10.8.2004 without considering the same, the petitioner was placed under suspension on the subsequent reports submitted by the second respondent dated 18.8.2004 and 17.9.2004. It is contended that in the impugned order there is no reference with regard to the explanation and production of records by the petitioner dated 10.8.2004, and further, the reports of the second respondent dated 18.8.2004 and 17.9.2004, which are the basis for passing of the impugned order, were not served on the petitioner nor any enquiry was conducted.

A reading of the impugned order reveals that the second respondent had submitted the reports to the first respondent stating that the petitioner had failed to produce the Gram Panchayat records for verification and failed to conduct Gram Panchayat meetings regularly and also failed to adjust certain amount. But, the impugned order do not disclose that the reports of the second respondent dated 18.8.2004 and 17.9.2004 were supplied to the petitioner and that the petitioner's explanation was considered. In view of the same, the respondents are hereby directed to furnish copies of all the reports to the petitioner, which were submitted by the second respondent, within two weeks from today and on furnishing of such reports by the respondents, the petitioner shall submit his explanation with necessary records within a period of two weeks thereafter. On submission of explanation by the petitioner, the first respondent shall consider the same and pass appropriate orders in accordance with law, within a period of four weeks thereafter.

With the above directions, the writ petition is disposed of. No costs.

A. GOPAL REDDY. J.

1st November, 2004

tsr.

To

1 The Collector, (Panchayat wing) Adilabad.
2 The Divisional Panchayath officer, Asifabad, Adilabad Dist.

3. Two CCs to Government Pleader for Panchayat Raj & Rural Development, High Court Buildings, Hyderabad. (OUT).

4 Two CD copies.